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State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER
Executive Director

KENT L. JONES
State Engineer/Division Director

JUL 28 2015

ORDER OF THE STATE ENGINEER

For Application to Appropriate Water Number 18-749 (A79901)

Application to Appropriate Water Number 18-749 (A79901) in the name of Wind River Ranch, LLC (represented by John Hansen), was filed on December 23, 2013, to appropriate 550.05 acre-feet (af) of water from points located: (1) Well - North 1320 feet and East 1320 feet from the S $\frac{1}{4}$ Corner of Section 8, T14S, R18W, SLB&M (16-inch well, 100-500 feet deep); (2) Well - North 2475 feet and East 2000 feet from the S $\frac{1}{4}$ Corner of Section 8, T14S, R18W, SLB&M (6-inch well, 100-500 feet deep). The water is to be used for the irrigation of 136.00 acres from April 1 to October 31; year-round, indoor, domestic requirements of 1.00 equivalent domestic unit; and year-round stockwatering of 200.00 equivalent livestock units (in cattle, horses, or equivalent species). The water is to be used in all or portion(s) of Section 8, T14S, R18W, SLB&M.

Notice of the application was published in The Times-News on March 26 and April 2, 2014, and protests were received from United States Department of the Interior, Bureau of Land Management (BLM), and US Department of the Interior, Fish and Wildlife Service (FWS). A hearing was held on May 28, 2014. At the request of the BLM employees of the United States Geologic Survey (USGS) made a presentation about the hydrogeologic resources in the Snake Valley. Also, representatives of BLM attended and presented information at the hearing. The FWS was not present at the hearing.

The applicant expressed the desire to have the application approved and at the same time withdraw another application (18-746 A79850) in the area for similar amounts of water. The applicant is of the opinion that adequate amounts of water are available that can be approved without impairing the rights of others or causing damage to the environment.

The FWS protested the application expressing concerns that Fish Springs National Wildlife Refuge (which is over 30 miles northeast of the proposed points of diversion) water rights might be impacted due to the fact that there is a component of interbasin flow from Snake Valley that contributes to the flows of the Fish Springs Flat spring complex. FWS also expressed concern about the size of the application and rate of development of the Snake Valley water resource.

The BLM has filed Diligence Claims documenting the right to use water from three springs and spring complexes near the proposed points of diversion (POD). In its written protest and at the hearing BLM expressed concern that pumping large quantities of water will impair its prior rights or other water rights critical to support multiple uses of public lands.

In addition to the protests received, the Utah Division of Wildlife Resources (UDWR) submitted a letter of concern dated February 10, 2014. UDWR expressed concern that further water depletions in the area pose a significant threat to aquatic wildlife that are the subject of conservation agreements. The two species of particular concern to UDWR are the Least Chub and the Columbia Spotted Frog. Both species have established populations in the Miller Springs Complex and the Leland Harris Springs Complex.

As to the FWS protest, Fish Springs is approximately 30 miles from the proposed well and while the State Engineer concurs that interbasin flow occurs between Snake Valley and Fish Springs Flat, it is the opinion of the State Engineer that there is sufficient water remaining in Snake Valley to accommodate some orderly development of the water resource before interference occurs at the Fish Springs complex.

In regard to the protest from the BLM; the BLM worked with the USGS to model the effects on the hydrologic system of the proposed diversions. The USGS acknowledged in its presentation that there are inherent uncertainties in the model used for the analysis and acknowledged that near Eskdale the model predicts one to two feet more drawdown than has actually been observed.

From the model, the simulated drawdown of the water levels near the BLM springs after 100 years of pumping water from the proposed PODs is estimated to be between an additional 0.5 to 1.0 foot. In its presentation at the hearing USGS acknowledged that it does not have a grasp on the correlation between water level drawdown and spring discharge. After listening to the information provided at the hearing and reviewing all submittals, the State Engineer has reason to believe that if the water is developed and diverted in a conscientious manner the proposed use of water will not impair the water rights of others.

Although the Utah Division of Wildlife Resources did not file a formal protest, the State Engineer is sufficiently aware of the sensitive species issues (Least Chub and Columbia Spotted Frog) in the Snake Valley. It is the State Engineer's Opinion that through cautious development of the groundwater resource and monitoring the impacts of development, the resource can be used in such a manner that the rights of others are protected and that environmental concerns can be addressed.

It is the opinion of the State Engineer that there is unappropriated water that can be developed under this application and filing this type of application is indicative of an immediate need for water. Therefore, the applicant is put on notice that diligence must be shown in pursuing the development of this application which can be demonstrated by the completion of the project as proposed in the application.

It is, therefore, **ORDERED** and Application to Appropriate Water Number 18-749 (A79901) is hereby **APPROVED** subject to prior rights and with the following conditions:

- 1) This application must be totally developed and placed to beneficial use on or before the noted proof due date, which is at least five years from the date of approval. Extensions of time will only be considered under unusual circumstances.
- 2) This approval is limited to an annual diversion not to exceed 550.05 acre-feet per year for the irrigation of 136 acres (544 acre-feet), year-round domestic requirements of 1.0 equivalent domestic unit (0.45 acre-foot), and the stockwatering of 200 head of livestock (in cattle or horses or equivalent species, 5.6 acre-feet).

The applicant is strongly cautioned that other permits may be required before any development of this application can begin and it is the responsibility of the applicant to determine the applicability of and acquisition of such permits. Once all other permits have been acquired, this is your authority to develop the water under the above referenced application which under Sections 73-3-10 and 73-3-12, Utah Code Annotated, 1953, as amended, must be diligently prosecuted to completion. The water must be put to beneficial use and proof must be filed on or before **July 31, 2020**, or a request for extension of time must be acceptably filed; otherwise the application will be lapsed. This approval is limited to the rights to divert and beneficially use water and does not grant any rights of access to, or use of land or facilities not owned by the applicant.

As noted, this approval is granted subject to prior rights. The applicant shall be liable to mitigate or provide compensation for any impairment of or interference with prior rights as such may be stipulated among parties or decreed by a court of competent jurisdiction.

Proof of beneficial use is evidence to the State Engineer that the water has been fully placed to its intended beneficial use. By law, it must be prepared by a registered engineer or land surveyor, who will certify to the location, uses and extent of your water right.

Upon the submission of proof as required by Section 73-3-16, Utah Code, for this application, the applicant must identify every source of water used under this application and the amount of water used from that source. The proof must also show the capacity of the sources of supply and demonstrate that each source can provide the water claimed to be diverted under this right as well as all other water rights which may be approved to be diverted from those sources.

Failure on your part to comply with the requirements of the applicable statutes may result in the lapsing of this Application to Appropriate Water.

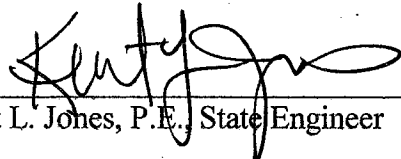
It is the applicant's responsibility to maintain a current address with this office and to update ownership of their water right. Please notify this office immediately of any change of address or for assistance in updating ownership.

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Your contact with this office, should you need it, is with the Weber River/Western Regional Office. The telephone number is 801-538-7240.

This Order is subject to the provisions of Administrative Rule R655-6-17 of the Division of Water Rights and to Sections 63G-4-302, 63G-4-402, and 73-3-14 of the Utah Code which provide for filing either a Request for Reconsideration with the State Engineer or an appeal with the appropriate District Court. A Request for Reconsideration must be filed with the State Engineer within 20 days of the date of this Order. However, a Request for Reconsideration is not a prerequisite to filing a court appeal. A court appeal must be filed within 30 days after the date of this Order, or if a Request for Reconsideration has been filed, within 30 days after the date the Request for Reconsideration is denied. A Request for Reconsideration is considered denied when no action is taken 20 days after the Request is filed.

Dated this 28th day of July, 2015.


Kent L. Jones, P.E., State Engineer

Mailed a copy of the foregoing Order this 28th day of July, 2015 to:

Wind River Ranch, LLC
PO Box 67
Garrison, UT 84728

United States Department of the Interior, BLM
c/o James E. Karkut, Attorney
125 South State Street, Suite 6201
Salt Lake City, UT 84138

US Department of the Interior, Fish and Wildlife
c/o Megan A. Estep
PO Box 25486
Denver, CO 80225-0486

BY:


Sonia R. Nava, Applications/Records Secretary